



Rep. Arthur Turner

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LRB100 04755 SLF 22312 a

1 AMENDMENT TO HOUSE BILL 314

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 314 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Code of Criminal Procedure of 1963 is  
5 amended by changing Sections 110-4 and 110-6 as follows:

6 (725 ILCS 5/110-4) (from Ch. 38, par. 110-4)

7 Sec. 110-4. Bailable Offenses.

8 (a) All persons shall be bailable before conviction, except  
9 the following offenses where the proof is evident or the  
10 presumption great that the defendant is guilty of the offense:  
11 capital offenses; offenses for which a sentence of life  
12 imprisonment may be imposed as a consequence of conviction;  
13 felony offenses for which a sentence of imprisonment, without  
14 conditional and revocable release, shall be imposed by law as a  
15 consequence of conviction, where the court after a hearing,  
16 determines that the release of the defendant would pose a real

1 and present threat to the physical safety of any person or  
2 persons; stalking or aggravated stalking, where the court,  
3 after a hearing, determines that the release of the defendant  
4 would pose a real and present threat to the physical safety of  
5 the alleged victim of the offense and denial of bail is  
6 necessary to prevent fulfillment of the threat upon which the  
7 charge is based; or unlawful use of weapons in violation of  
8 item (4) of subsection (a) of Section 24-1 of the Criminal Code  
9 of 1961 or the Criminal Code of 2012 when that offense occurred  
10 in a school or in any conveyance owned, leased, or contracted  
11 by a school to transport students to or from school or a  
12 school-related activity, or on any public way within 1,000 feet  
13 of real property comprising any school, where the court, after  
14 a hearing, determines that the release of the defendant would  
15 pose a real and present threat to the physical safety of any  
16 person and denial of bail is necessary to prevent fulfillment  
17 of that threat; or making a terrorist threat in violation of  
18 Section 29D-20 of the Criminal Code of 1961 or the Criminal  
19 Code of 2012 or an attempt to commit the offense of making a  
20 terrorist threat, where the court, after a hearing, determines  
21 that the release of the defendant would pose a real and present  
22 threat to the physical safety of any person and denial of bail  
23 is necessary to prevent fulfillment of that threat.

24 (a-5) A person who does not pose a real and present threat  
25 to the physical safety of any person, presents a flight risk in  
26 the absence of a bail bond, and is otherwise eligible for bail

1 under this Article shall not be detained solely because of  
2 their financial or economic inability to post bond.

3 (b) A person seeking release on bail who is charged with a  
4 capital offense or an offense for which a sentence of life  
5 imprisonment may be imposed shall not be bailable until a  
6 hearing is held wherein such person has the burden of  
7 demonstrating that the proof of his guilt is not evident and  
8 the presumption is not great.

9 (c) Where it is alleged that bail should be denied to a  
10 person upon the grounds that the person presents a real and  
11 present threat to the physical safety of any person or persons,  
12 the burden of proof of such allegations shall be upon the  
13 State.

14 (d) When it is alleged that bail should be denied to a  
15 person charged with stalking or aggravated stalking upon the  
16 grounds set forth in Section 110-6.3 of this Code, the burden  
17 of proof of those allegations shall be upon the State.

18 (Source: P.A. 97-1150, eff. 1-25-13.)

19 (725 ILCS 5/110-6) (from Ch. 38, par. 110-6)

20 Sec. 110-6. (a) Upon verified application by the State, ~~or~~  
21 the defendant, the Sheriff in whose custody the defendant has  
22 been remanded, or on its own motion the court before which the  
23 proceeding is pending may increase or reduce the amount of bail  
24 or may alter the conditions of the bail bond or grant bail  
25 where it has been previously revoked or denied. If bail has

1 been previously revoked under ~~pursuant to~~ subsection (f) of  
2 this Section or if bail has been denied to the defendant under  
3 ~~pursuant to~~ subsection (e) of Section 110-6.1 or subsection (e)  
4 of Section 110-6.3, or if a monetary bail bond has been set  
5 under Section 110-5 and the defendant has been unable to post  
6 the required amount to secure release from custody, the  
7 defendant shall be required to present a verified application  
8 setting forth in detail any new facts not known or obtainable  
9 at the time of the setting of bail, or the previous revocation  
10 or denial of bail proceedings. If the court grants bail where  
11 it has been previously revoked or denied, or increases or  
12 reduces the amount of bail, the court shall state on the record  
13 of the proceedings the findings of facts and conclusion of law  
14 upon which such order is based.

15 (a-5) If bail is set under Section 110-5 of this Article or  
16 if a defendant is ordered to be electronically monitored as a  
17 condition of release, and if the defendant has been unable to  
18 post the required bond or secure a location from which to be  
19 electronically monitored and remains in custody for 72 hours  
20 after the date bail or release with conditions has been set,  
21 the defendant shall be afforded a hearing under subsection (a)  
22 of this Section. The inability of the defendant to pay bail or  
23 lack of suitable housing shall be deemed sufficient new facts  
24 to support a motion for the alteration of bail under subsection  
25 (a) of this Section.

26 (b) Violation of the conditions of Section 110-10 of this

1 Code or any special conditions of bail as ordered by the court  
2 shall constitute grounds for the court to increase the amount  
3 of bail, or otherwise alter the conditions of bail, or, where  
4 the alleged offense committed on bail is a forcible felony in  
5 Illinois or a Class 2 or greater offense under the Illinois  
6 Controlled Substances Act, the Cannabis Control Act, or the  
7 Methamphetamine Control and Community Protection Act, revoke  
8 bail pursuant to the appropriate provisions of subsection (e)  
9 of this Section.

10 (c) Reasonable notice of such application by the defendant  
11 shall be given to the State.

12 (d) Reasonable notice of such application by the State  
13 shall be given to the defendant, except as provided in  
14 subsection (e).

15 (e) Upon verified application by the State stating facts or  
16 circumstances constituting a violation or a threatened  
17 violation of any of the conditions of the bail bond the court  
18 may issue a warrant commanding any peace officer to bring the  
19 defendant without unnecessary delay before the court for a  
20 hearing on the matters set forth in the application. If the  
21 actual court before which the proceeding is pending is absent  
22 or otherwise unavailable another court may issue a warrant  
23 pursuant to this Section. When the defendant is charged with a  
24 felony offense and while free on bail is charged with a  
25 subsequent felony offense and is the subject of a proceeding  
26 set forth in Section 109-1 or 109-3 of this Code, upon the

1 filing of a verified petition by the State alleging a violation  
2 of Section 110-10 (a) (4) of this Code, the court shall without  
3 prior notice to the defendant, grant leave to file such  
4 application and shall order the transfer of the defendant and  
5 the application without unnecessary delay to the court before  
6 which the previous felony matter is pending for a hearing as  
7 provided in subsection (b) or this subsection of this Section.  
8 The defendant shall be held without bond pending transfer to  
9 and a hearing before such court. At the conclusion of the  
10 hearing based on a violation of the conditions of Section  
11 110-10 of this Code or any special conditions of bail as  
12 ordered by the court the court may enter an order increasing  
13 the amount of bail or alter the conditions of bail as deemed  
14 appropriate.

15 (f) Where the alleged violation consists of the violation  
16 of one or more felony statutes of any jurisdiction which would  
17 be a forcible felony in Illinois or a Class 2 or greater  
18 offense under the Illinois Controlled Substances Act, the  
19 Cannabis Control Act, or the Methamphetamine Control and  
20 Community Protection Act and the defendant is on bail for the  
21 alleged commission of a felony, or where the defendant is on  
22 bail for a felony domestic battery (enhanced pursuant to  
23 subsection (b) of Section 12-3.2 of the Criminal Code of 1961  
24 or the Criminal Code of 2012), aggravated domestic battery,  
25 aggravated battery, unlawful restraint, aggravated unlawful  
26 restraint or domestic battery in violation of item (1) of

1 subsection (a) of Section 12-3.2 of the Criminal Code of 1961  
2 or the Criminal Code of 2012 against a family or household  
3 member as defined in Section 112A-3 of this Code and the  
4 violation is an offense of domestic battery against the same  
5 victim the court shall, on the motion of the State or its own  
6 motion, revoke bail in accordance with the following  
7 provisions:

8 (1) The court shall hold the defendant without bail  
9 pending the hearing on the alleged breach; however, if the  
10 defendant is not admitted to bail the hearing shall be  
11 commenced within 10 days from the date the defendant is  
12 taken into custody or the defendant may not be held any  
13 longer without bail, unless delay is occasioned by the  
14 defendant. Where defendant occasions the delay, the  
15 running of the 10 day period is temporarily suspended and  
16 resumes at the termination of the period of delay. Where  
17 defendant occasions the delay with 5 or fewer days  
18 remaining in the 10 day period, the court may grant a  
19 period of up to 5 additional days to the State for good  
20 cause shown. The State, however, shall retain the right to  
21 proceed to hearing on the alleged violation at any time,  
22 upon reasonable notice to the defendant and the court.

23 (2) At a hearing on the alleged violation the State has  
24 the burden of going forward and proving the violation by  
25 clear and convincing evidence. The evidence shall be  
26 presented in open court with the opportunity to testify, to

1 present witnesses in his behalf, and to cross-examine  
2 witnesses if any are called by the State, and  
3 representation by counsel and if the defendant is indigent  
4 to have counsel appointed for him. The rules of evidence  
5 applicable in criminal trials in this State shall not  
6 govern the admissibility of evidence at such hearing.  
7 Information used by the court in its findings or stated in  
8 or offered in connection with hearings for increase or  
9 revocation of bail may be by way of proffer based upon  
10 reliable information offered by the State or defendant. All  
11 evidence shall be admissible if it is relevant and reliable  
12 regardless of whether it would be admissible under the  
13 rules of evidence applicable at criminal trials. A motion  
14 by the defendant to suppress evidence or to suppress a  
15 confession shall not be entertained at such a hearing.  
16 Evidence that proof may have been obtained as a result of  
17 an unlawful search and seizure or through improper  
18 interrogation is not relevant to this hearing.

19 (3) Upon a finding by the court that the State has  
20 established by clear and convincing evidence that the  
21 defendant has committed a forcible felony or a Class 2 or  
22 greater offense under the Illinois Controlled Substances  
23 Act, the Cannabis Control Act, or the Methamphetamine  
24 Control and Community Protection Act while admitted to  
25 bail, or where the defendant is on bail for a felony  
26 domestic battery (enhanced pursuant to subsection (b) of



1 Section 12-3.2 of the Criminal Code of 1961 or the Criminal  
2 Code of 2012), aggravated domestic battery, aggravated  
3 battery, unlawful restraint, aggravated unlawful restraint  
4 or domestic battery in violation of item (1) of subsection  
5 (a) of Section 12-3.2 of the Criminal Code of 1961 or the  
6 Criminal Code of 2012 against a family or household member  
7 as defined in Section 112A-3 of this Code and the violation  
8 is an offense of domestic battery, against the same victim,  
9 the court shall revoke the bail of the defendant and hold  
10 the defendant for trial without bail. Neither the finding  
11 of the court nor any transcript or other record of the  
12 hearing shall be admissible in the State's case in chief,  
13 but shall be admissible for impeachment, or as provided in  
14 Section 115-10.1 of this Code or in a perjury proceeding.

15 (4) If the bail of any defendant is revoked pursuant to  
16 paragraph (f) (3) of this Section, the defendant may demand  
17 and shall be entitled to be brought to trial on the offense  
18 with respect to which he was formerly released on bail  
19 within 90 days after the date on which his bail was  
20 revoked. If the defendant is not brought to trial within  
21 the 90 day period required by the preceding sentence, he  
22 shall not be held longer without bail. In computing the 90  
23 day period, the court shall omit any period of delay  
24 resulting from a continuance granted at the request of the  
25 defendant.

26 (5) If the defendant either is arrested on a warrant

1 issued pursuant to this Code or is arrested for an  
2 unrelated offense and it is subsequently discovered that  
3 the defendant is a subject of another warrant or warrants  
4 issued pursuant to this Code, the defendant shall be  
5 transferred promptly to the court which issued such  
6 warrant. If, however, the defendant appears initially  
7 before a court other than the court which issued such  
8 warrant, the non-issuing court shall not alter the amount  
9 of bail heretofore set on such warrant unless the court  
10 sets forth on the record of proceedings the conclusions of  
11 law and facts which are the basis for such altering of  
12 another court's bond. The non-issuing court shall not alter  
13 another courts bail set on a warrant unless the interests  
14 of justice and public safety are served by such action.

15 (g) The State may appeal any order where the court has  
16 increased or reduced the amount of bail or altered the  
17 conditions of the bail bond or granted bail where it has  
18 previously been revoked.

19 (Source: P.A. 97-1150, eff. 1-25-13.)".